

EXHIBIT “A”

(2 of 3)

1 Q. So generally, you wouldn't -- in January
2 of 2016, I'm just narrowing it to that time
3 frame, you would not be sleeping at nighttime,
4 you would be sleeping during the day?

5 A. If I had a load that delivered early in
6 the morning, then yeah, I would more than
7 likely be sleeping late morning closer towards
8 afternoon evening.

9 Q. Were most of your loads overnight
10 delivery loads?

11 A. Yes.

12 Q. Okay. And then, do you recall roughly
13 how many hours of sleep you tried to get?

14 A. I normally sleep between six and eight
15 hours.

16 Q. Okay. And then when you wake up, tell
17 me a little bit about your morning routine if
18 you have one?

19 A. It is shower, get something to eat, if I
20 don't go to sleep right then and there, I'll do
21 the showering, get something to eat, figure out
22 what time my next load is because I don't -- I
23 leave my cell phone on so once I'm asleep, I'm
24 asleep. You cannot bother me. If I wake up
25 after six hours of sleep, I will read for a

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1 A. Comcheks are generally for lumper fees
2 or any type of fees, and my Comdata card is for
3 if I want to get a pay advance or it is for
4 fuel.

5 Q. And do you -- before using either card,
6 do you have to check with K & B?

7 A. For my Comdata for fueling purposes, no.

8 Q. Okay. So sorry, is the Comdata card the
9 same as a fuel card, or do you also have a fuel
10 card independent?

11 A. That is the fuel card.

12 Q. It is, okay.

13 A. It is the fuel card. It is also the
14 card where -- well, it doesn't come through,
15 like lumper fees don't come through the card, I
16 have a Comdata code.

17 Q. Tell me what a lumper fee is?

18 A. It is when I'm at the receiver, and they
19 need to take freight off, and they need to
20 charge the company to take the freight off of
21 the truck, to sort it, to check for the number
22 of items or damages, and I will go to K & B and
23 say, hey, their lumper fee is this amount.
24 They will send me a Comdata code or an express
25 code, and then I'll give the check to whoever

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1 little bit, and then figure out what I want to
2 do until it is time for me to go.

3 Q. Got it. Is it your custom and practice
4 to have some kind of meal before you get on the
5 road?

6 A. Uh-huh.

7 Q. Yes?

8 A. Yes.

9 Q. So you have something in your stomach?

10 A. Yes.

11 Q. Okay. Do you recall how many miles your
12 truck had on the odometer at the time of the
13 wreck?

14 A. Absolutely not.

15 Q. And at that time were you compensated by
16 the mile?

17 A. Yes.

18 Q. Did you feel satisfied with the level of
19 compensation?

20 A. Yes.

21 Q. Did you have a Com data card or a
22 Comchek?

23 A. I have both.

24 Q. You have both. And when are you
25 permitted to use each?

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1 is accepting it.

2 Q. Got it. So it is to check for accuracy,
3 right?

4 A. Yeah.

5 Q. Okay.

6 A. And just to take the freight off.

7 Q. Understood. And we talked about this a
8 little bit. You were carrying Tyson Foods'
9 goods, correct?

10 A. Correct.

11 Q. And do you recall where in Waterloo,
12 Iowa, you picked up the Tyson Foods' goods?

13 A. You mean like actual address?

14 Q. No, like what was the name of the place,
15 anything like that?

16 A. Tyson.

17 Q. Was it Tyson, like a Tyson --

18 A. Yeah.

19 Q. Okay. That's what I wanted to know.

20 Do you recall how much your truck
21 weighed with the complete load on the day of
22 the accident?

23 A. No.

24 Q. Okay. Does 80,000 pounds sound --

25 A. It was less than.

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1 Q. Less than 80,000?
 2 A. Yeah.
 3 Q. Do you recall how much less than?
 4 A. Normally -- I normally only pick up
 5 loads that are around about 76-thousand and a
 6 couple hundred pounds, but I never actually
 7 pick up anything that is 80-thousand pounds.
 8 Q. Is 80,000 pounds the cap? Is that the
 9 max that you are allowed?
 10 A. That is the max, but it is not really
 11 all that -- nobody really likes to put
 12 80,000 pounds on a truck.
 13 Q. Sure. Are you considered an experienced
 14 driver to be able to handle hauling that much
 15 weight?
 16 A. Yes. Even if after you've gotten your
 17 CDL and have only been doing it for a week, you
 18 are considered an experienced driver to handle
 19 that much weight.
 20 Q. You are, okay.
 21 Do you happen to know what gear you were
 22 in at the time of the crash?
 23 A. Let's see, more than likely between
 24 third and fourth gear.
 25 Q. Okay. Do you happen to know what the

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1 correct?
 2 A. Correct.
 3 Q. Okay. There was presumably like a
 4 rumble strip and then the median, correct?
 5 A. Correct.
 6 Q. So before the accident, we are still
 7 talking about, you were looking out your
 8 driver's side left window?
 9 A. Mirror, window kind of, yeah.
 10 Q. Mirror, all right. Did you consider it
 11 to be particularly slick that morning?
 12 A. No, I was fine. So for me personally, I
 13 had no problems the entire night.
 14 Q. Got it. Did you notice that other
 15 vehicles on the road were starting to slip?
 16 A. No.
 17 Q. No you didn't?
 18 A. I didn't see anybody actually having any
 19 problems. They all -- everybody was driving
 20 slowly, but I didn't see anybody, like, weaving
 21 in and out of traffic or doing anything.
 22 Q. -- doing any circles.
 23 Do you recall about how fast you were
 24 going before the accident?
 25 A. The speed limit.

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1 RPM's were?
 2 A. No.
 3 Q. Were you shifting gears?
 4 A. I have to to slow down or the truck
 5 won't come to a stop.
 6 Q. Got it. And were you looking in the
 7 mirrors?
 8 A. I was looking at this side. I knew
 9 there was nothing over here so there was no
 10 need to check.
 11 MS. ELI: What do you mean by
 12 "this side" --
 13 THE WITNESS: The driver's side
 14 or the passenger side.
 15 MS. ELI: -- you have to say
 16 left or right because "this" --
 17 THE WITNESS: I'm sorry.
 18 MS. ELI: -- doesn't translate
 19 on the --
 20 THE WITNESS: I was just
 21 checking out the left side, the driver's side,
 22 not on the passenger side because I knew there
 23 was nothing, no one there.
 24 Q. (By Ms. Benhamou) And so on the
 25 passenger side of your truck was the median,

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1 Q. Okay. And do you know what the speed
 2 limit is there?
 3 A. It was 60, and then it was 55.
 4 Q. Got it. And where does it switch to 55,
 5 like after the tollway?
 6 A. About three or four miles away from the
 7 toll lane.
 8 Q. So hang on. West of the toll lane,
 9 correct? If you are heading east, then it
 10 drops from 60 to 55 miles per hour about three
 11 to four miles west of the tollway?
 12 MS. ELI: I'm going to object to
 13 that because the tollways merge with other
 14 highways. So I don't know if she was on that
 15 exact tollway before that toll if she would
 16 have been going east or west or north or south.
 17 MS. BENHAMOU: Got it.
 18 Q. (By Ms. Benhamou) So tell me, if you
 19 can, with more specificity so that I can ask
 20 you a better question, where does it shift from
 21 the 60 to the 55 miles an hour?
 22 Are you on I-80?
 23 A. Yeah, I'm on I-80. I know the 57, they
 24 merge off, but I was still on I-80. So I want
 25 to say about there.

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1 Q. Okay.

2 A. About around 55 where they split off, I

3 think that is when it changes to 55.

4 Q. Got it. And can we agree at the time of

5 the wreck, your vehicle was in optimum working

6 condition?

7 A. Yes.

8 Q. Including your brakes?

9 A. Yes.

10 Q. On a scale of one-to-ten, how would you

11 rate the condition of your tractor at the time

12 of the wreck?

13 A. I'm not a mechanic. I don't know. I

14 cannot give you that.

15 Q. Okay. That's fine. But can we just

16 rule-out the fact that you don't believe a

17 mechanical issue caused the wreck?

18 A. Correct.

19 Q. And by "mechanical issue," I mean a

20 mechanical issue with your truck?

21 A. Correct.

22 Q. Can you tell me what the clutch brake

23 does?

24 A. It allows you to switch from one gear to

25 the next.

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1 compensate for a roadway condition that you

2 know would not allow you to stop as quickly as

3 you could?

4 A. Following distance.

5 Q. Following distance, okay. When was your

6 last day off before the wreck?

7 A. I don't know.

8 Q. That's fine. And how were you feeling

9 the morning of January 20, 2016?

10 A. I don't know.

11 Q. It was too far. Can we rule-out the

12 fact that you were sick on that morning?

13 A. I was not sick, no.

14 Q. Okay. Can we rule out the fact that you

15 were fatigued on that morning?

16 A. I wasn't tired.

17 Q. Can you take me through how the MCP50

18 system works? Are you not familiar with that

19 term?

20 A. No, what is that?

21 Q. I think it is just the Qualcomm, and if

22 that is the question, then I'm just going to

23 ask you a new question.

24 A. Now that I know what you are talking

25 about, when it powers down, that is what it

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1 Q. And can you tell me what steps that you

2 take if you attempt a panic stop and the

3 equipment doesn't actually respond and doesn't

4 slow down, or has that never happened to you?

5 A. Yeah, that has never happened to me.

6 Q. Can you tell me what a panic stop is?

7 A. It is when you hit the brakes really

8 hard. Hard enough that you drop speed, like

9 say if you were going 60 miles an hour, and you

10 hit the brakes really, really hard, the truck

11 is going to go from 60 to 40 really fast, and

12 maybe even lower. It depends on how hard you

13 hit the brakes.

14 Q. Okay.

15 A. Something might happen with the trailer,

16 so don't.

17 Q. Got it. So have you had to employ the

18 panic stop?

19 A. No.

20 Q. Got it. And in your opinion, how does a

21 driver compensate for a condition that would

22 increase the truck's stopping distance

23 generally?

24 A. What do you mean?

25 Q. I mean would slowing down help to

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1 says.

2 Q. So when the Qualcomm powers down, it

3 says, MCP50?

4 A. Yeah.

5 Q. Okay. Is your Qualcomm on at all times

6 when you are on duty?

7 A. Unless the power is down, and generally

8 that is for updates.

9 Q. Got it. Is it -- are you responsible

10 for making sure the Qualcomm is on at all times

11 though when you are driving?

12 A. I don't have the power to turn it on or

13 off. So if it turns off on its own, it is

14 because it is updating, and then it will turn

15 right back on.

16 Q. Got it. And even if your engine is off,

17 your Qualcomm is still on?

18 A. Yes.

19 Q. Okay. When you're in sleeper berth is

20 the Qualcomm on?

21 A. Yes.

22 Q. All right.

23 MS. ELI: Kiara, do you want to

24 break at all?

25 MS. BENHAMOU: Oh, yeah, sorry.

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1 THE WITNESS: No, not yet.
 2 MS. BENHAMOU: Just let me know,
 3 we can stop whenever you want.
 4 Q. (By Ms. Benhamou) I want to talk about
 5 the Qualcomm messages, and you will see why I
 6 called them QTRACS messages that you received
 7 the day before the accident.
 8 MS. BENHAMOU: Lamis, I only
 9 have two copies so if you want to look through
 10 them first.
 11 MS. ELI: Which one are you
 12 going to show her?
 13 MS. BENHAMOU: I was going to
 14 show her the set. I think it is 11 pages so
 15 Bates stamp 232 to 221.
 16 MS. ELI: So it is backwards,
 17 okay.
 18 MS. BENHAMOU: Yeah, they are in
 19 reverse order.
 20 MS. ELI: Okay.
 21 MS. BENHAMOU: All right. Back
 22 on the record, please.
 23 Q. (By Ms. Benhamou) All right.
 24 Ms. Wharton, will you leaf through these pages
 25 Bates stamped 232 down to 221, and tell me if

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1 look over her shoulder because I don't want her
 2 to guess on this.
 3 MS. BENHAMOU: Me neither.
 4 A. So what are you asking me again?
 5 Q. (By Ms. Benhamou) So I'm asking you if
 6 this message went out on January 19, 2016, at
 7 7:41 a.m.?
 8 MS. ELI: Is that the time it
 9 went out because they all have that same time?
 10 A. Well, apparently because the seconds on
 11 the --
 12 Q. (By Ms. Benhamou) So I'm going to -- the
 13 seconds do change. I mean, the minutes change.
 14 The set that I've given you, I think range from
 15 7:41:10 all the way to 7:46:23?
 16 A. Well, this says I received them, would
 17 that mean received?
 18 MS. ELI: I believe so, and that
 19 is when you would have read it, okay.
 20 Q. (By Ms. Benhamou) So all you see on the
 21 Qualcomm is the message text; is that correct?
 22 A. Yeah. I also get timestamps on it so I
 23 will know when it came in and when somebody,
 24 the time somebody sent me the message.
 25 Q. Okay. And the timestamps that you get

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1 these messages look familiar to you?
 2 MS. ELI: Kiara, you can go
 3 through each one individually and say if that
 4 one looks familiar to you.
 5 MS. BENHAMOU: Sure.
 6 MS. ELI: I know there is a lot
 7 of them.
 8 A. They all, it looks the same as they
 9 always do.
 10 Q. (By Ms. Benhamou) As they always do?
 11 A. Yeah.
 12 Q. So these are just in the regular course
 13 of your business, you get messages just as
 14 these frequently telling you you've been
 15 assigned a load --
 16 A. Yes.
 17 Q. -- and then telling you directions on
 18 where to go, right?
 19 A. Uh-huh, yes.
 20 Q. Yes? So can we agree that the set that
 21 I gave you start on, and maybe you'll teach me
 22 how to read them, but I believe they start on
 23 January 19, 2016, at 7:41:10 a.m., is that what
 24 the first one says?
 25 MS. ELI: I'm going to come and

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1 on the Qualcomm, do they look like the
 2 timestamps to the left of the document under
 3 ONICRTR?
 4 MS. ELI: So when you get the
 5 timestamp, is it the pending, is it the
 6 received, is it the transmittal time, do you
 7 know?
 8 A. The timestamps just generally the date
 9 and then the time. It doesn't say any of these
 10 extra letters.
 11 Q. (By Ms. Benhamou) Got it. So for the
 12 purposes of these questions, I just want to
 13 know if you agree that the 11 pages of messages
 14 that I gave you are, you received them -- I'm
 15 sorry, strike that.
 16 You were sent them between 7:41 and
 17 7:46?
 18 A. So that is 7:41. I would agree with
 19 that, yeah.
 20 Q. Okay. And in 5 minutes, you got 11
 21 messages; is that correct?
 22 A. Sometimes it takes a little bit for,
 23 they have to input extra information.
 24 Q. Okay.
 25 A. So generally what comes first is this.

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1 Q. So the first page, which is 232?
 2 A. Yeah.
 3 Q. That comes first?
 4 A. Uh-huh.
 5 Q. And then generally what comes next?
 6 A. Customer directions.
 7 Q. Okay. And that would be reflected on
 8 230?
 9 A. Yes.
 10 Q. And then would you get an additional
 11 stop?
 12 A. That would come with the loaded
 13 information.
 14 Q. All right. So you get 232 first?
 15 A. Uh-huh.
 16 Q. And then 230?
 17 A. 231. So it would be 232, 231, and then
 18 230, 229 because that is -- yeah, 229, 228,
 19 with my particular dispatcher now, this 227
 20 that comes like the very last.
 21 Q. Okay.
 22 A. That is generally just him giving me
 23 directions, like he is just rephrasing what we
 24 talked about over the phone.
 25 Q. Got it.

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1 particular time.
 2 Q. Okay. And do we agree that you got 11
 3 messages concerning your schedule?
 4 A. Yes.
 5 Q. And is that custom and practice
 6 generally?
 7 A. Always.
 8 Q. Always, okay.
 9 A. Same, messages just different info.
 10 Q. Got it. Different directions?
 11 A. And depending on where I'm going.
 12 Q. Okay. All right. Do you agree that the
 13 goal of the messages is to make sure you arrive
 14 on time to deliver the goods to the Newport,
 15 Michigan destination?
 16 MS. ELI: I'm going to object to
 17 the relevance of that since she is not writing
 18 the messages. Or not relevant, sorry,
 19 foundation, my mistake.
 20 A. So ask me again.
 21 Q. (By Ms. Benhamou) Sure. Can we agree
 22 that the goal of these messages and giving you
 23 directions and the times and the routes, is all
 24 to make sure you arrive on time at the
 25 customer?

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1 A. I think the pick-up time is next.
 2 Q. So that would be number?
 3 A. 226.
 4 Q. Okay.
 5 A. And then the log departure is 225, and
 6 then delivery is 224. So these look like, for
 7 then, it is in order.
 8 Q. Okay. Great.
 9 A. And then 223, that is correct.
 10 Q. And then 222, you are notified about the
 11 critical customer load?
 12 A. With Josh, that was with every load
 13 regardless if it was -- if it was a critical
 14 customer or not, every load he sent me was a
 15 critical --
 16 Q. -- customer. Got it. But in this case,
 17 Meijer is a critical customer so we do know it
 18 was a critical load, right?
 19 A. Correct.
 20 Q. Okay. But he --
 21 A. Yeah, he sent it with every load.
 22 Q. So that is a familiar message?
 23 A. Right.
 24 Q. And then 221 is just another recap?
 25 A. Yeah, saying I agree to roll at that

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1 A. Correct.
 2 Q. And then on this particular day, from
 3 1/19 to early 1/20, we know that the wreck
 4 happened, correct?
 5 A. Sure.
 6 Q. Okay. So it just -- it interrupted the
 7 flow, I guess, is my point?
 8 A. It did, yeah.
 9 Q. Okay. So I'm going to jump back to the
 10 day before the wreck, which is January 19th.
 11 A. When was the wreck?
 12 Q. The wreck was January 20th.
 13 A. Okay.
 14 Q. So I want to talk about your schedule
 15 for the 19th for a second.
 16 A. All right.
 17 Q. And I'm going to show you these QTRACS
 18 messages. See how they are called QTRACS up at
 19 the top?
 20 A. Oh, okay.
 21 Q. I didn't just make it up. I'm not that
 22 crazy.
 23 A. Okay.
 24 Q. And they are Bates stamped 245 all the
 25 way down to 233, and I just put them in reverse

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1 order based on time chronology.

2 MS. BENHAMOU: Do you want to
3 pull up your chair next to hers so that you
4 guys can look at them together when I ask a
5 question about it?

6 MS. ELI: Do I want to?

7 MS. BENHAMOU: Pull up your
8 chair next to hers so that when we go through
9 it, you are still seeing it?

10 MS. ELI: Yeah.

11 Q. (By Ms. Benhamou) All right. Now,
12 Ms. Wharton, do you agree that you arrived at
13 the consignee at 3:40 a.m. on January 19th
14 based on Page 245?

15 A. The consignee, uh-huh.

16 Q. Yes?

17 A. Yes.

18 Q. Okay. And based on this document alone,
19 do you know who the consignee was? We will get
20 to the next pages I promise.

21 A. It doesn't actually say.

22 Q. All right. So let's go to the next
23 page, which is 244, and would you agree that at
24 3:52 a.m., you sent the final destination
25 message that is reflected on this page?

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1 A. I most definitely don't know.

2 Q. No, no, no. That is why we are going to
3 go through this together. Okay. So just bear
4 with me for a minute.

5 A. All right.

6 Q. On Page 245, do you see the 245 at the
7 bottom?

8 A. Right.

9 Q. This message text says, "Arrived at
10 consignee," would you send this arrival notice,
11 or would someone send it for you?

12 A. From Qualcomm, I would send it.

13 Q. Okay. So based on this document, does
14 it look like you transmitted that you arrived
15 at 3:40 a.m. on January 19th?

16 A. To where?

17 Q. We will get to that.

18 A. Oh, I don't know. Let's just say if I
19 was at the consignee, I would send an arrival
20 message.

21 Q. Got it. Perfect. Go to the second page
22 for me.

23 A. (Witness complies.)

24 Q. And tell me what Bates stamp number is
25 at the bottom?

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1 A. No.

2 Q. Okay. Who sends these messages?

3 A. I have no idea. This is not me.

4 Q. That's not you, okay.

5 A. This person -- yes, this is a Jason
6 Herman (spelled phonetically). That wasn't
7 mine.

8 Q. Who is Jason Herman?

9 A. I don't know.

10 Q. Okay.

11 A. So 346 I don't know where this was. I
12 don't know who this is.

13 Q. Got it. So you are still on 245?

14 A. Yeah, 245.

15 Q. So you didn't --

16 A. I didn't send it off. I never sent a
17 final destination. I never made it to
18 Michigan.

19 Q. No, no, no. Hang on. We are on the day
20 before. We are on January 19th not
21 January 20th. You were supposed to arrive in
22 Michigan on January 21st.

23 A. So I'm confused.

24 Q. Okay. So I'm just jumping back to the
25 day before the accident.

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1 A. 244.

2 Q. And tell me what this message reflects,
3 if you know.

4 A. It means that they -- that their trailer
5 is empty.

6 Q. Okay.

7 A. And that all freight has been taken off
8 and everything is okay.

9 Q. Okay. So you wouldn't transmit this
10 message?

11 A. I would. If I'm empty, I have paid
12 everything, I have my paperwork, and the
13 paperwork shows that it is an empty trailer,
14 there is no shortages, damages, then I would
15 send out final destination or empty call.

16 Q. Great. And the timestamp that this
17 message was sent, do you believe 3:52 a.m.
18 sounds correct?

19 MS. ELI: If you would have sent
20 it, what time would you have sent it?

21 Q. (By Ms. Benhamou) I was going based on
22 this (indicating) time?

23 A. This (indicating) 3:52?

24 Q. Correct.

25 A. It would depend on how long it took for

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1 the freight to get off, and I check my trailer
 2 so it would just depend on a lot of things.
 3 Q. Sure. All right. Let's go to 243,
 4 please.
 5 A. Okay.
 6 Q. Can you read the message text for this
 7 page?
 8 A. This says, Arrived at shipper 01/19 at
 9 3:52 with trailer. It doesn't say if you
 10 dropped your empty in the computer, load
 11 assignment showed you with a trailer sent,
 12 MACRO 30.
 13 Q. What does this message mean?
 14 A. It is just arrived. You got to the
 15 shipper, and you are supposed to put what
 16 trailer you had with you so the company can
 17 keep track.
 18 Q. Got it. Is this a message you would
 19 transmit?
 20 A. Once I got to the shipper, yeah.
 21 Q. Okay. Let's go to 242, please.
 22 A. (Witness complies.)
 23 Q. Okay. Tell me what this message text
 24 says, please.
 25 A. Once I picked up my trailer and I've

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1 A. Right.
 2 Q. Does that mean you are supposed to start
 3 the trip at 5:00 a.m.?
 4 A. It means it needs to have been picked
 5 up, meaning you have to have picked up your
 6 trailer, have the paperwork, and be ready to go
 7 by 5:00 a.m.
 8 Q. On the 18th?
 9 A. On the 18th.
 10 Q. So this is the day even before the 19th?
 11 A. Right.
 12 Q. Okay. So I'm just confused because it
 13 looks like you received these messages, and
 14 they were transmitted from the left side on the
 15 19th, but it is with regard to a load for the
 16 18th. Can you make sense of that? I'm not
 17 trying to trick you at all.
 18 A. Yeah, I don't know.
 19 Q. Okay.
 20 A. It could have very well have been that
 21 that is just the load assignment when it could
 22 have been picked up, but I wasn't told to pick
 23 it up until the 19th, and it just needed to be
 24 delivered on the 19th.
 25 Q. Okay. Makes sense. Let's go to 239,

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1 gotten my paperwork, all the questions that ask
 2 like the weight, pieces, what time I got there,
 3 the date, the temperature, and then the Bill of
 4 Lading number, just everything is supposed to
 5 be sent into it.
 6 Q. Got it. And is this a message --
 7 A. I would send.
 8 Q. Got it. Thank you. 240 --
 9 A. Okay.
 10 Q. -- can you explain to me what this
 11 message is?
 12 A. This is a load assignment.
 13 Q. And where are you directed to go based
 14 on this load assignment?
 15 A. It says I'm picking up at International
 16 Paper, Waterloo, Iowa, and it is supposed to go
 17 to the Tyson Foods in Hillsdale, Iowa (sic).
 18 Q. Hillsdale, Illinois?
 19 A. Illinois, yeah. That is correct.
 20 Q. So explain something to me, under P\UDT
 21 and TIM so I'm assuming that means pick up --
 22 A. Pick up date and time.
 23 Q. And it says January 18th?
 24 A. Uh-huh.
 25 Q. One, eighteen, five?

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1 and does this message just tell you how many
 2 miles it takes to complete the trip you were
 3 just assigned?
 4 A. Yes, it is tariff miles and state miles.
 5 Q. All right. Let's go to 238, please.
 6 This looks like another load assignment?
 7 A. Correct.
 8 Q. And this is basically telling you to go
 9 back from Hillsdale, Illinois to Waterloo,
 10 Iowa, correct?
 11 A. Yeah, Hillsdale to Iowa, yeah.
 12 Q. Okay. So originally you went from
 13 Waterloo, Iowa to Hillsdale, and now you are
 14 going back from Hillsdale to Waterloo with
 15 another load assignment; is that correct?
 16 A. Right.
 17 Q. Okay. That's all. What time were you
 18 supposed to arrive back in Waterloo, Iowa,
 19 based on this message?
 20 A. At the very latest 3 o'clock.
 21 Q. And you were on time, I will show you in
 22 a second. Page 237 is what?
 23 A. Directions.
 24 Q. And Page 236 is what?
 25 A. They just want ETA.

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1 Q. Okay. Can you read the message text for
2 me, please.
3 A. May I ask what is your ETA to Waterloo
4 with empty box 227? They are waiting on it.
5 If you are on break, what time can you roll?
6 Thanks, Mike.
7 Q. And who is Mike, if you know?
8 A. I don't know.
9 Q. Okay. Does the name Mike Rodriguez
10 sound familiar to you at all?
11 A. No. To be honest, no.
12 Q. Okay. When you got this message, do you
13 have any idea where you were just by looking at
14 this page?
15 A. I was probably en route.
16 Q. Okay. You were probably still driving?
17 A. Uh-huh.
18 Q. Yes?
19 A. Yes.
20 Q. And if you were still driving, would you
21 see this message or would you not?
22 A. No. It would just -- the Qualcomm would
23 just let me know, you have a message, but if
24 I'm driving, I cannot read it. I can turn up
25 the volume, if I would like to listen to the

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1 you arrived back in Iowa, correct?
2 A. Correct.
3 Q. Then it says, Driver one hour used
4 today, do you see that?
5 A. Correct.
6 Q. What does that mean?
7 A. That is if you want to say how many
8 hours you've driven and basically how many
9 you've got left out of your 11.
10 Q. Okay. And since there is no value next
11 to that, does it mean that --
12 A. I never fill it in.
13 Q. Okay. Because they have the data coming
14 from the Qualcomm, correct?
15 A. That and I don't want to do extra work.
16 Q. Right, okay. And then we don't have to
17 talk about 233 because I know what that means
18 now.
19 All right. So that is the day before.
20 So when you get messages that say, Hey, give us
21 your ETA, it doesn't stress you out because you
22 don't see those messages until you actually
23 arrive; is that correct?
24 A. Correct. If I stop -- or if I stop the
25 truck at a light, and if I see the message,

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1 message, but no.
2 Q. Likely you didn't do that?
3 A. No.
4 Q. Okay.
5 A. I don't like her voice.
6 Q. Okay. On Page 235, please tell me what
7 that message text says.
8 A. Please send an empty MACRO.
9 Q. An empty out MACRO?
10 A. Yeah. The empty call basically.
11 Q. What does that mean?
12 A. To let them know that I've gotten to my
13 destination, and I've dropped my trailer,
14 everything. I'm done.
15 Q. Makes sense. 234 you now arrived at the
16 consignee, which is back in Waterloo, Iowa,
17 correct?
18 A. Probably.
19 Q. Because you were --
20 A. No, that is my -- the destination.
21 Q. Right. Based on your trip, you went
22 Iowa, Illinois, Illinois, back to Iowa?
23 A. So then, yeah.
24 Q. So then based on this message at
25 7:00 a.m. -- and 27 minutes -- on January 19th,

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1 then words -- actual words will show up, but no
2 give an ETA, they don't stress me out at all.
3 Q. It is just a reminder of the time you
4 have to be there?
5 A. No, it is just they are asking me, what
6 time will I be there.
7 Q. Okay. Got it. Okay. So that took us
8 through to 7 -- I think I said -- 27 in the
9 morning. Yeah.
10 Then here, I'm going to show you 233.
11 It is a final destination message, and I'll
12 show you this copy. Does this message on
13 Page 233 imply to you that you arrived back
14 from Iowa at 7:35 a.m.?
15 A. No. That implies that I was finished
16 with everything, and I was ready to leave from
17 that destination. So dropped the trailer, I
18 turned in my paperwork, the paperwork has been
19 signed, so then I'm ready to go.
20 Q. Got it. Go from Iowa though?
21 A. To the truck stop, yeah.
22 Q. Okay. And where is the truck stop, or
23 does it always change?
24 A. Pilot. There is two. Pilot and Flying
25 J are right across from each other.

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1 Q. Okay. How far is it from this Waterloo,
2 Iowa, place where you dropped off the load?
3 A. Maybe five miles.
4 Q. Okay. Then we already talked about
5 these messages that start at 7:41. So we won't
6 go back through those.
7 All right. I'm going to pull up your
8 driver log, and I'm going to show you that it
9 matches up. So what you now have, Kiara, is
10 362 to 366, and let me know if this document
11 looks familiar to you?
12 A. Uh-huh, yes.
13 Q. And what is this document that I'm now
14 showing you?
15 A. It looks like my day log.
16 Q. Okay. And is it your day log from
17 January 19th, the day before the wreck?
18 A. I believe so.
19 Q. And then is it also your day log from
20 January 20th starting on Page 365?
21 A. Yes.
22 Q. Okay. So on January 19th, we were
23 talking about 7:00 a.m., and it looks like as
24 of 7:38, you officially go off duty in Iowa,
25 correct?

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1 roughly 13 hours and also slept for 9, is that
2 an accurate statement?
3 A. Let's see, no. Because it goes from a
4 24-hour period. So if from midnight to
5 midnight, let's say --
6 Q. Okay.
7 A. -- if I drove from midnight.
8 Q. On the 19th?
9 A. 18th.
10 Q. I'm sorry, 18th.
11 A. And then I drove some, and then midnight
12 comes, and I drove, I don't know for let's say
13 three or four hours, and then I go into the
14 sleeper berth for ten, that is a rest break.
15 Q. Right.
16 A. So then at that point, I'm allowed to
17 drive again for another 11.
18 Q. Got it. So after your sleep on the 19th
19 of 9 hours and 48 minutes, you are allowed to
20 drive another 11, correct?
21 A. We also have off-duty driving.
22 Q. We also have off-duty driving, got it.
23 A. Which means I can drive personally or to
24 the truck stop. That does not interrupt my
25 sleep break.

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1 A. Right.
2 Q. And that is consistent with the QTRACS
3 messages and showing you arrived on time in
4 Iowa, and then tell me how long you were in the
5 sleeper after that?
6 A. I was in the sleeper for 9 hours and
7 48 minutes.
8 Q. Starting when?
9 A. Eight in the morning.
10 Q. Great. And tell me up in the right-hand
11 corner, I think it shows you for how long you
12 drove on the 19th; is that correct?
13 A. Driving?
14 Q. Yeah. Does that tell you how many hours
15 total you drove on January 19th?
16 A. Yes.
17 Q. And how many hours total did you drive
18 on January 19th?
19 A. Nine hours and 20 minutes.
20 Q. Okay. And then, please, jump to
21 Page 365, and again in the upper right corner,
22 does it indicate how many hours you drove on
23 the 20th?
24 A. Four hours and ten minutes.
25 Q. Okay. So you before the crash drove for

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1 Q. Explain to me what that means?
2 A. It is my personal drive time.
3 Q. Okay.
4 A. So basically I can drive if I'm just in
5 a tractor or tractor-trailer, I can drive
6 wherever I want to, you know, with legal
7 limits --
8 Q. Sure.
9 A. -- on my own time, and I have 50 minutes
10 of that to do whatever I want, and it does not
11 interrupt my sleep break. Because technically
12 it's like just being off duty.
13 Q. So yesterday we were talking about the 8
14 hours of driving, for every 8 hours of driving,
15 you need a 30-minute break?
16 A. Correct.
17 Q. Does that on-duty time that we just
18 discussed incorporate into the 30-minute break
19 that is required after driving for 8 hours
20 straight, or are they just separate concepts?
21 A. What do you mean?
22 Q. Well, if I'm confusing you, then they
23 are probably separate concepts so I'm just
24 going to ask a new question.
25 A. Okay.

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1 Q. Okay. You can put that up there. I'm
2 done with that just so you know.
3 Do you recall where your cell phone was
4 on January 20, 2016?
5 A. Probably in the little cubbyhole right
6 above or right below my radio.
7 Q. In your cab?
8 A. Uh-huh.
9 Q. Yes.
10 A. Yes.
11 Q. Did you have an E-ZPass on January 20,
12 2016?
13 A. Yes. It was just a little blue one at
14 that point.
15 Q. Okay. And you probably have no idea so
16 tell me you don't know if you don't, do you
17 know where the E-ZPass data is transmitted
18 within K & B?
19 A. No.
20 Q. Okay. So you don't know where that data
21 is stored either?
22 A. No.
23 Q. Did you have a radar detector in your
24 vehicle?
25 A. No.

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1 Then there was a toll road, and then that's
2 when the wreck happened. So a little bit of a
3 distance, but not enough that everybody, you
4 know, was rushing to the toll road.
5 Q. Okay. Makes sense. And not enough that
6 it made it like traffic jam kind of traffic?
7 A. Yeah, there was only two other cars.
8 Mr. Perez and some pickup truck.
9 Q. Okay. So you believe that Mr. Perez was
10 on the same route as you?
11 A. I can't say.
12 Q. Okay. Can you tell me if -- strike
13 that. Sorry.
14 Going back to your logs, if you left
15 Urbana at roughly 2:00 a.m.?
16 A. Uh-huh.
17 Q. Yes?
18 MS. ELI: Look at your logs and
19 verify that first. Don't just agree to her
20 times.
21 MS. BENHAMOU: And I'll show you
22 first.
23 MS. ELI: You can just show her.
24 That is fine.
25 Q. (By Ms. Benhamou) All right. So if you

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1 Q. Okay. What was traffic like on the day
2 of the wreck?
3 A. That's a little complicated.
4 MS. ELI: Can you start with
5 times on that, and ask if she had been driving
6 for a few hours before?
7 MS. BENHAMOU: Sure.
8 Q. (By Ms. Benhamou) I'm just going to go
9 back to your messages, and we start after you
10 just came out of the sleeper berth.
11 A. You mean, like, the entire day?
12 Q. Well, I was trying to speed things up,
13 and go just from Urbana to Newport, Michigan.
14 A. It was fine. It was very, very light
15 traffic. Then there was an accident.
16 Q. Before you got in the accident?
17 A. Yeah, before. There was some type of
18 little accident so there was a bit of a traffic
19 jam.
20 Q. Do you recall how long before this wreck
21 that wreck occurred? I can clarify.
22 A. Yeah. I mean it was like the wreck
23 happened, then they were letting a few people
24 go, and then that was that five mile between
25 the 60 and the 55 and the speed limit change.

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1 left Urbana at around 2:00 a.m. --
2 MS. ELI: Hadas, can you make
3 sure she understands by leaving, do you mean
4 she was done with her load and actually on the
5 road starting to drive to Urbana versus her
6 actually getting to Urbana and dropping off
7 what was being dropped off?
8 MS. BENHAMOU: Yes, I will
9 clarify. Thank you.
10 Q. (By Ms. Benhamou) So I'm not sure that
11 your driver's log will be able to tell you
12 around what time you left Urbana on the way to
13 Newport, Michigan, or does it?
14 A. No. Just says, Driving on-duty sleeper.
15 Q. Okay. Would the Qualcomm be more useful
16 in telling you what time you actually left
17 Urbana?
18 A. Actual messages?
19 Q. Yes.
20 A. Yes.
21 Q. Let's do that then. These are Bates
22 stamped 219 through 212.
23 MS. ELI: Lamis, I'm going to
24 start with 216, and if anybody needs a break,
25 please let me know.

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1 THE WITNESS: Can I go ahead?
 2 MS. BENHAMOU: Yes, absolutely.
 3 (A brief recess was taken
 4 at this time.)
 5 MS. BENHAMOU: Back on the
 6 record.
 7 Q. (By Ms. Benhamou) Before we left, we
 8 were about to look at more QTRACS messages,
 9 which would tell us when you left Urbana and
 10 began your trip to Newport, Michigan.
 11 A. Okay.
 12 Q. So if you look for me at Bates stamp
 13 216, what does that message say?
 14 A. Arrived at stop 1/20, 2:01 a.m.
 15 Q. Okay. So that is January 20th, yes?
 16 A. Right.
 17 Q. And you arrived at 2:01 a.m.?
 18 A. Correct.
 19 Q. Okay, great. Now, let's go to 215.
 20 Tell me what this message says?
 21 A. This is me asking for a lumper fee.
 22 Q. 216 -- I'm sorry, 215?
 23 A. Yeah, this is me asking for a lumper fee
 24 because I'm unloading at Super Value.
 25 Q. Okay.

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1 Q. Okay. So tell me the date and time on
 2 Page 212?
 3 A. January 20th, 2:47 a.m.
 4 Q. Okay. Thank you. Now -- and that is
 5 all of the messages, correct?
 6 A. Yes.
 7 Q. All right. And by "all of the
 8 messages," I mean the ones that I've handed to
 9 you as the set.
 10 A. Yeah.
 11 Q. So at 2:47 a.m., based on these QTRACS
 12 messages and based on your driver log --
 13 A. Yeah, I haven't left the facility just
 14 yet at this point.
 15 Q. Okay. So now look at the driver log,
 16 and tell me what time you left the Urbana
 17 facility, if you can.
 18 A. It would say that I left the actual
 19 facility or rather the Qualcomm picked me up
 20 driving at 2:54 a.m.
 21 Q. Okay. Great. So what time were you
 22 scheduled to arrive in Newport, Michigan, if
 23 you know?
 24 A. I don't know.
 25 MS. ELI: They might be on the

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1 A. I need 94 dollars. I didn't put for how
 2 many pieces. I put the order number, and the
 3 lumper service capstone.
 4 Q. Okay, great. Now, let's go to 214.
 5 Tell me what that is.
 6 A. This is them giving me the lumper fee,
 7 the purchase order authorization, and the
 8 amount.
 9 Q. Got it. And let's go to 213?
 10 A. Same.
 11 Q. Same thing?
 12 A. That is just giving me the express code,
 13 and the amount for that amount.
 14 Q. Great. 212?
 15 A. This is me putting in my loaded call or
 16 my empty call for the first stop.
 17 Q. Okay.
 18 A. But not necessarily the empty call for
 19 the entire trip.
 20 Q. So you are not ready to leave yet,
 21 correct?
 22 A. Yeah, I'm ready to leave from this
 23 particular stop. It is just that I'm just now
 24 putting in all of the information about what is
 25 left on the trailer from Michigan.

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1 beginning pages of one -- it is in the QTRACS?
 2 MS. BENHAMOU: Yeah.
 3 MS. ELI: I just don't want to
 4 tell her --
 5 MS. BENHAMOU: No. It is in the
 6 QTRACS.
 7 Q. (By Ms. Benhamou) I just wanted to know
 8 if based on the information you had in front of
 9 you, if you could tell me what time you were
 10 supposed to arrive in Newport, Michigan, and
 11 the answer is no, right?
 12 A. No, right.
 13 Q. Okay. I think to get that answer, we
 14 need to go back to Pages 232 through 221, which
 15 gave you your schedule, does that sound right?
 16 A. Correct.
 17 MS. BENHAMOU: Okay. Lamis, do
 18 you want to look through these again?
 19 MS. ELI: I'll just double check
 20 it.
 21 MS. BENHAMOU: And Page 224 is
 22 the one that I think I care about.
 23 MS. ELI: 224?
 24 MS. BENHAMOU: Yes.
 25 MS. ELI: It is also on 232 just

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1 so you know.
 2 A. I think what you are looking at so I
 3 don't have to go through all of the loaded
 4 information, it is just right there.
 5 Q. (By Ms. Benhamou) So sometimes they will
 6 give you your destination arrival time twice?
 7 A. Yeah, they will give me my delivery
 8 times in a completely separate message so I
 9 don't have to know. I can just, this is your
 10 delivery times, click it, there you go.
 11 Q. You don't have to read everything else?
 12 A. Yeah, no searching.
 13 Q. So Page 224, is that what this message
 14 does for you?
 15 A. Correct.
 16 Q. So based on this message on Page 224,
 17 please read me what the message text states?
 18 A. Your delivery times are now set for the
 19 first stop January 20, 3:00 a.m. central
 20 standard time, Urbana, Illinois. Second stop
 21 zero January 21st, 4:00 a.m. eastern standard
 22 time, Newport, Michigan. The rest 3, 4, and 5
 23 are blank, and it says, Please make a note of
 24 these -- of the new delivery dates and times.
 25 Please let me know if you got this. Thanks.

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1 Tell me what lane you were driving in before
 2 the accident?
 3 A. Before as in the toll road lane?
 4 Q. Yes.
 5 A. I was in the right lane.
 6 Q. Okay. And then once you merged from
 7 I-80 to --
 8 A. I never. I just stayed in that because
 9 I have gone through there so many times, I know
 10 which lane to stay in, and I stayed in that
 11 lane. So I never moved out of it.
 12 Q. Got it. Thank you that helps. Did you
 13 have your headlights on?
 14 A. Yes.
 15 Q. Low beams?
 16 A. Yes. I drive with all of my lights on
 17 24/7.
 18 Q. Even when it is bright outside?
 19 A. Yes.
 20 Q. Okay. Just as a measure of precaution?
 21 A. It is a safety thing. People -- if you
 22 see my headlights, I know you see me.
 23 Q. Got it. And we do agree that you are
 24 using your low beams not your high beams?
 25 A. Correct.

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1 Q. Great. And tell me 4:00 a.m. eastern
 2 time is 3:00 a.m. central standard time?
 3 A. Say that again.
 4 Q. Is 4:00 a.m. eastern time synonymous
 5 with 3:00 a.m. central time?
 6 A. 4:00 a.m. eastern is 3:00 a.m. central,
 7 yeah.
 8 Q. All right. So we know that you made it
 9 to Urbana by the time that is prescribed on 224
 10 because you were ready to leave Urbana by 2:54
 11 or 2:57, sound right?
 12 A. You are asking me if I --
 13 Q. Let me simplify. You were on time with
 14 your stop at Urbana?
 15 A. Correct.
 16 Q. Correct?
 17 A. Right.
 18 Q. So now when we talked about the crash
 19 that you had to drive around, we have a bit of
 20 a time frame, correct? We know it happened
 21 after 3:00 a.m. central standard time?
 22 A. I would say, yes.
 23 Q. And that is on January 20, 2016?
 24 A. I believe so.
 25 Q. All right. So we talked about traffic.

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1 Q. Okay. Do you know how fast you were
 2 driving in the moments before the wreck?
 3 A. No. I slowed down. So I can't really
 4 say.
 5 Q. Okay.
 6 A. I was really paying attention to
 7 everybody else and slowing down at a nice,
 8 steady pace.
 9 Q. And in the 15 minutes prior to the
 10 accident, can you estimate how many cars were
 11 on the road traveling with you?
 12 A. There was that accident so I can't say.
 13 Q. Okay. In the five minutes before the
 14 wreck, can you estimate how many cars were
 15 on --
 16 A. Two.
 17 Q. That is not including you?
 18 A. Not including me, yeah. So in all there
 19 were just three.
 20 Q. Got it. So your truck, two
 21 noncommercial motor vehicles?
 22 A. Correct.
 23 Q. And where were those two drivers driving
 24 in relation to your truck?
 25 A. Mr. Perez was in front of me, and then

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1 there was a pickup on the side of me.
 2 Q. And Mr. Perez was in the right-hand
 3 lane?
 4 A. Yeah, he was in the right lane.
 5 Q. Was the pickup truck in the left lane a
 6 little bit ahead of you?
 7 A. Slightly, but not, not too much.
 8 Q. Okay. And so do you happen to know --
 9 strike that.
 10 Did you see Mr. Perez's vehicle before
 11 the impact?
 12 A. You mean like before he spun out?
 13 Because, I mean, he is in my direct line of
 14 sight.
 15 Q. Let's just do this. Tell me in your own
 16 words everything that happened from the time
 17 you approached the toll at I-80 until the time
 18 of the wreck?
 19 A. Just going through, I was just watching,
 20 looking around, and I noticed the pickup, and
 21 noticed that Mr. Perez was in front of me. I
 22 also noticed the moment he spun out. I hit my
 23 hazards, and then I just started nicely
 24 braking. I did not panic brake.
 25 Q. Okay.

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1 truck was facing this way (indicating).
 2 Q. Westbound?
 3 A. So perpendicular.
 4 Q. Okay.
 5 MS. ELI: Kiara, when you just
 6 said "facing this way" and "perpendicular," can
 7 you just say, was he facing like oncoming
 8 traffic or was he facing away from you when he
 9 was in that left lane?
 10 THE WITNESS: When he was in the
 11 left lane, he was facing -- I guess you could
 12 say, I would have been on his right-hand side.
 13 MS. ELI: So was he facing you
 14 as he stopped in that left lane?
 15 THE WITNESS: No. His car -- I
 16 don't know how to explain it. I'm sorry. Like
 17 we were going this (indicating) way, like this
 18 (indicating) is ongoing traffic.
 19 MS. ELI: Explain it to her.
 20 A. Oncoming traffic going this (indicating)
 21 way.
 22 Q. (By Ms. Benhamou) Right.
 23 A. Mr. Perez was -- his truck was facing --
 24 Q. Flipped around so that his front end was
 25 facing your front end?

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1 A. As I was braking, I took even more care
 2 to slow down at a nice comfortable, a nice safe
 3 pace because I felt my tractor sliding. So I
 4 know I bring it up, ease it up even more than
 5 what I was doing already.
 6 Q. And the tractor starts sliding if you
 7 push too hard on the brake?
 8 A. If I push too hard.
 9 Q. Got it.
 10 A. Panic braking would have just forced my
 11 trailer to slide out. So just ease up even
 12 more, just brake, let up, brake, let up. It is
 13 that five-second thing they tell you about when
 14 going downhill on ice and snow. Just five
 15 seconds, let up, five seconds, let up.
 16 Q. And was it enough to prevent colliding
 17 into the vehicle driven by Mr. Perez?
 18 A. Yes, actually it was. What Mr. Perez
 19 did was when he spun out, he made it to the
 20 left side of the highway.
 21 Q. The left side of the highway?
 22 A. Yeah, the left side.
 23 Q. Okay.
 24 A. So he was over here (indicating) when he
 25 stopped. He came to a complete stop. His

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1 A. No. He did not flip. He just turned.
 2 He just did a complete --
 3 Q. 180?
 4 A. 180, yeah. So do you want me to draw
 5 this?
 6 Q. Sure. Here. We will mark it as an
 7 exhibit later.
 8 You can draw the lanes; you can draw the
 9 median, whatever you recall.
 10 A. Okay. Well --
 11 Q. Median is the squiggly line?
 12 Okay. You are labeling it, thank you.
 13 A. These are extra. These are the cash
 14 lanes.
 15 Q. Okay.
 16 A. And that (indicating) is the median.
 17 Q. Okay.
 18 A. He was kind of around here (indicating),
 19 if that makes sense, because there is another
 20 lane right here (indicating) --
 21 Q. Okay.
 22 A. -- coming from a different direction.
 23 At this point (indicating), these lanes they
 24 merge into each other, and then there is
 25 another median right here (indicating).

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1 Q. Okay. So show me where Mr. Perez's
2 vehicle came to a rest with an "X" before the
3 impact?
4 A. Before the impact, right here
5 (indicating).
6 Q. Okay. So that is where the "X" is,
7 great. Now, tell me how your two vehicles
8 collided.
9 A. The first time, he spun out, he spun out
10 this way (indicating), and his car was facing
11 this (indicating) direction towards the cash
12 lane.
13 Q. Oh, okay. So if we put a compass on
14 this, I think this is what I will say -- I'm
15 not going to draw anything. I'll have you draw
16 it.
17 MS. ELI: I'm going to object to
18 drawing a compass on there because I know this
19 area is really weird. Can you just mark it by
20 where the toll -- the overhead toll would have
21 been, or what direction that would have been.
22 I think that will make it easier for us.
23 MS. BENHAMOU: Yeah, please.
24 A. So all of this (indicating) was the
25 toll.

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1 came to a complete stop, the pickup stopped the
2 weird dashing back and forth, and I looked at
3 him, and I don't know if he looked at me, but I
4 was paying attention to him because he was the
5 one that was causing the problems.
6 Q. Right.
7 A. So he looked at us and then he decided
8 to come back out the second time.
9 Q. Got it.
10 A. At this time point, we are way too close
11 to be able to try to stop in any kind of way.
12 And then he got directly in front of me, and
13 then that is when I hit him.
14 Q. And that's when you hit him. So he had
15 enough time to cut across the left lane, into
16 the right lane, and then make his vehicle face
17 east again?
18 A. Because he went from one shoulder to the
19 next. He wanted to get to the right side of
20 the highway.
21 Q. Okay. So once he pulled out in front of
22 you --
23 A. Uh-huh.
24 Q. -- was his vehicle -- at the time of
25 impact, was his vehicle facing south, or was it

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1 Q. (By Ms. Benhamou) Got it. Thank you.
2 And is this for eastbound traffic, like are you
3 guys heading east?
4 A. I was heading east towards Indiana.
5 Q. Perfect. So if you were heading east,
6 then when Mr. Perez came to a stop, he was
7 facing south?
8 A. South, yeah.
9 Q. So he was facing south after the first
10 turn he did?
11 A. Yeah. So this (indicating) is where he
12 started.
13 Q. And then you draw the circle, and the
14 "X" is where he stopped the first time?
15 A. Yes.
16 Q. Now, tell me what happened next?
17 A. Then the second time as we were coming
18 up, we were getting closer, me and the pickup.
19 I was just paying attention to the pickup
20 because he was doing some weird back and forth
21 type thing.
22 Q. Okay.
23 A. Mr. Perez, when he stopped the first
24 time, I looked at him. So I am watching him,
25 and I know that he stopped. Once Mr. Perez

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1 facing east?
2 A. It was still going south.
3 Q. It was still going south?
4 A. Yes. He was still traveling directly
5 across the highway.
6 Q. Okay. So what parts of your vehicle do
7 you believe collided with what parts of his
8 vehicle?
9 A. It would be the passenger side. Not the
10 entire back, but like the back passenger
11 because I made him turn into the median.
12 Q. Got it. So the passenger side of your
13 truck collided with what part of Mr. Perez's
14 vehicle, the passenger side of Mr. Perez's
15 vehicle?
16 A. Not the entire passenger side. Like the
17 back part where the license plates is, and, you
18 know, there is a left-side curve and a
19 right-side curve, like that. I came into
20 contact with that area. Like closer to the
21 bumper back, tire-type part where I made him
22 turn into the median, which is where he
23 stopped.
24 Q. Right.
25 A. And at that point, I kind of had to keep

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1 going to slow down.
 2 Q. Got it. So it sounds like he almost
 3 made it across both lanes of traffic before the
 4 collision occurred?
 5 A. Uh-huh.
 6 Q. Yes?
 7 A. Yes.
 8 Q. Okay. But he wasn't able to get fully
 9 across?
 10 A. Correct.
 11 Q. And then the front right side of your
 12 truck collided with the back right side of his
 13 car?
 14 A. I would say more of my middle. I mean,
 15 I'm way bigger.
 16 Q. Sure.
 17 A. So I would say he hit more of the middle
 18 part.
 19 Q. Okay. So kind of hit head-on for your
 20 truck into the more back, right-corner,
 21 passenger side of his vehicle?
 22 A. Uh-huh.
 23 Q. Yes?
 24 A. Yes.
 25 Q. Okay. Now, after the crash --

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1 anything you could do to avoid the wreck?
 2 A. No. Especially since he came out again,
 3 and this pickup truck dashing left and right,
 4 it was like a replay all over again. I could
 5 not avoid him.
 6 Q. Okay. Do you believe that the weather
 7 conditions contributed to the wreck?
 8 A. For Mr. Perez, yes. For me, no. Like I
 9 said, I was fine.
 10 Q. You were in control of your truck?
 11 A. Yes.
 12 Q. Okay. Did you believe you were running
 13 late the morning of the wreck?
 14 A. No. I always have plenty of time. I
 15 always show up regardless of rain, shine, snow
 16 an hour early.
 17 Q. And your records reflect that.
 18 A. Yeah.
 19 Q. Did your foot ever come off the gas
 20 before impact was made?
 21 A. Yes. I do not -- I train myself
 22 mentally, do not hit the brakes, do not hit the
 23 brakes, do not hit the brakes where there is
 24 like panic braking.
 25 Q. Right.

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1 A. Right.
 2 Q. Sorry, strike that. Did you have your
 3 seatbelt on?
 4 A. Yes.
 5 Q. Did you have the radio on?
 6 A. I think I was playing my iPod.
 7 Q. Okay. And how do you listen to your
 8 iPod when you drive?
 9 A. Through the auxiliary.
 10 Q. Okay. So there are no earbuds in your
 11 ear?
 12 A. No, never.
 13 Q. Okay. There is no Bluetooth?
 14 A. Never. I need to be able to hear
 15 everything that is going on around my truck.
 16 Q. Got it. So it is just through the
 17 speakers in your cab?
 18 A. Uh-huh, yes.
 19 Q. So in your own words, what do you
 20 believe caused the wreck?
 21 A. Mr. Perez spinning out. Even if he spun
 22 out and just stopped, we would have been fine,
 23 but he came out across the second time, and
 24 that is the problem.
 25 Q. Got it. And do you believe there was

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1 A. But I did have to slow down. My foot
 2 did not accelerate.
 3 Q. So your foot wasn't on the gas pedal.
 4 It was on and off the brake?
 5 A. Correct.
 6 Q. Okay. Now, we are after the crash.
 7 A. Uh-huh.
 8 Q. What happened next?
 9 A. After I brought the truck to a complete
 10 stop, I was kind of cattywampus a little bit.
 11 A little bit in the shoulder, most definitely
 12 blocking the right lane. My trailer was kind
 13 of hanging out on the left. I was angry. I am
 14 not going to lie, I was really pissed. Excuse
 15 my language. I was really pissed.
 16 Q. No, that's fine. It sounds like, yeah.
 17 Okay. Who was the first person you
 18 called after the wreck?
 19 A. K & B.
 20 Q. Okay.
 21 A. Safety. I don't know who. Just to me
 22 their department, safety.
 23 Q. Thank you for anticipating my question,
 24 and tell me, do you recall what you told them?
 25 A. I got into an accident.

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1 Q. Do you recall -- did you tell them
2 anymore detail?
3 A. More than likely what happened, the guy
4 spun out in front of me. That was basically
5 it.
6 Q. What was the next phone call you made?
7 A. Safety told me -- asked my if I called
8 911. I was, like, no. He said call 911, and
9 then go and see if that guy is okay.
10 Q. Okay.
11 A. After that I called 911 and told them
12 where I was, and answered any questions that
13 they had. Then I got out to see how he was.
14 At that point, by the time I got to the back of
15 his car, Mr. Perez had already climbed over
16 from the driver's seat into the passenger seat,
17 and he was just kind of looking around.
18 Q. Okay.
19 A. He wanted to get out so I kind of -- I
20 didn't hold open the door for him because it
21 was really hard to, but I held it. So he put
22 all of the pressure needed to actually get out
23 of the car.
24 Q. So you helped him exit his vehicle?
25 A. Minimally, yes.

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1 report?
2 A. Such as critical events?
3 Q. Yeah.
4 A. I didn't have to do, push the button
5 itself. Once there is any type of hard braking
6 -- no, you know, once the hit impact, it
7 creates a critical event, but hard impacts,
8 hard braking, hard swerves, it will do it
9 automatically.
10 Q. Got it. Would you characterize the
11 impact as a hard impact?
12 A. Yeah, that was impact, hard enough
13 impact.
14 Q. Were you injured at all?
15 A. No, I was good.
16 Q. Okay. Able to walk out of your truck?
17 A. Yeah, I was good.
18 Q. Okay. You didn't go to the emergency
19 room after the accident?
20 A. Did not feel the need to.
21 Q. Okay. Were you checked out by the
22 ambulance?
23 A. No, I didn't want them to. I was -- I
24 mean, I was just angry so they couldn't fix
25 that.

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1 Q. From the passenger side since his
2 driver's side was smushed up against the
3 shoulder?
4 A. Uh-huh, yes.
5 Q. And was Mr. Perez crying when you first
6 got to him?
7 A. No.
8 Q. Was he crying out in pain?
9 A. No.
10 Q. Was he in any visible pain at the time
11 you saw him?
12 A. No.
13 Q. Did he seem out of it?
14 A. I'm not -- honestly, I think that is
15 just a normal state for this particular dude.
16 Q. Okay.
17 A. So that is the way that he came off to
18 me that he was just (indicating).
19 Q. That's total okay.
20 And at the point where you were helping
21 him minimally get out of the vehicle, had you
22 already called 911?
23 A. Yes. Before I even got out of my
24 tractor.
25 Q. Got it. Do you have an onboard accident

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1 Q. So did they do a blood-alcohol test?
2 A. No.
3 Q. Did they breathalyze you?
4 A. No.
5 Q. I have to ask. And did you -- well, any
6 kind of workers' comp claim against K & B for
7 any injuries you sustained in the wreck?
8 A. No.
9 Q. Okay. After minimally assisting
10 Mr. Perez out of the vehicle, what happened
11 next?
12 A. And then I asked him what was he
13 thinking.
14 Q. And what did he say?
15 A. Someone told him he is supposed to go to
16 right side of the highway. I was like -- I
17 didn't say anything else after that.
18 Q. Okay.
19 A. And then he started mentioning, you
20 know, on his own -- didn't ask him anything
21 else because I just thought that was the
22 stupidest thing I ever heard -- but after that,
23 he started mentioning about needing to get a
24 new car, was going to get one anyway. I think,
25 oh, so not only is he crazy, he is also shady.

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